

**CITY OF NEWPORT BEACH  
PLANNING COMMISSION STAFF REPORT**

January 20, 2011 Hearing

Agenda Item 3

**SUBJECT:** Johnson Residence - (PA2010-176)  
1537 Santanella Terrace  
▪ Code Amendment No. CA2010-010

**APPLICANT:** Andrew Goetz, Architect

**PLANNER:** Javier S. Garcia AICP, Senior Planner  
(949) 644-3233, [jgarcia@newportbeachca.gov](mailto:jgarcia@newportbeachca.gov)

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**PROJECT SUMMARY**

The application consists of a code amendment to change a front setback established on Setback Map No. S9A- Irvine Terrace from 34 feet to 19 feet, to accommodate a proposed addition to the existing single family dwelling.

**RECOMMENDATION**

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. \_\_\_\_\_ recommending City Council adoption of Code Amendment No. CA2010-010 (Attachment No. PC2) to revise Setback Map No. S9A- Irvine Terrace (Attachment PC3) to establish a 19-foot front setback at 1537 Santanella Terrace, Lot 28 of Tract 1701.

### VICINITY MAP



### GENERAL PLAN



### ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit residential detached
NORTH	RS-D	R-1	Single-unit residential detached
SOUTH	RS-D	R-1	Single-unit residential detached
EAST	RS-D	R-1	Single-unit residential detached
WEST	RS-D	R-1	Single-unit residential detached



## INTRODUCTION

### Project Setting

The subject property is located in the Irvine Terrace neighborhood on the southerly side of Santanella Terrace between Patolita Drive and Ramona Drive. The topography in the Irvine Terrace neighborhood slopes downward from East Coast Highway to Bayside Drive.

### Project Description

The current 34-foot front setback requirement for the subject property is established on Setback Map S9A- Irvine Terrace (Attachment No. PC 3, formerly Districting Map No. 24). Minimum required front setbacks range from between 5 feet to 35 feet on Santanella Terrace. The applicant's request is to reduce the front setback to 19 feet.

Refer to Attachment No. PC 7 for the project plans of the proposed residential addition. Homeowner's Association approval has been deferred until the City takes action on the proposed code amendment (Attachment No. PC 8).

### Background

Irvine Terrace was one of the City's early residential subdivisions and planned communities annexed in the 1950's. A staggered setback concept was approved with the original tract maps of Irvine Terrace (specifically Tracts 1700 and 1701) in an agreement between the Planning Commission and the Irvine Company, as a part of the Irvine Terrace Annexation in May of 1953. A condition of approval required that Variances would be needed to establish setbacks at a later date and were subsequently added on to Districting Map No. 24 (DM 24). The existing front setbacks specified on DM 24 were carried forward directly onto the current Setback Map S9A- Irvine Terrace as a part of the Zoning Code Update, which became effective on November 26, 2010, and were not changed or altered.

Between 1953 and 1954, inclusive, the City Council approved several variances, which altered setbacks for several and various properties at a time, to stagger the front setbacks within the Irvine Terrace Community. The findings for the approval state that the staggered setbacks were consistent with the existing development under construction and offered an "architecturally practical" and "interesting tract layout."

Subsequently, the City approved numerous modification permits in Irvine Terrace to allow a portion of buildings to encroach into the required front setbacks, including six on Santanella Terrace prior to 2001, three after 2001; and several others throughout the Irvine Terrace neighborhood. However, it should be noted that those approvals for setback encroachments only apply to the individual projects as presented, and do not



permanently change the setback requirement as does a Code Amendment to the Setback Map.

Modification Permit No. 4440 was approved in 1996, for the neighboring property to the west at 1531 Santanella Terrace, to allow a front setback of 7 feet, 6 inches (the building addition to encroach 14 feet 6 inches and the garage to encroach 8 feet into the required 22-foot front setback). A copy of that approval and related plans is attached for the Commission's information (Attachment No. PC 4).

More recently on July 6, 2010, the City Council adopted Ordinance 2010-11 to amend the Districting Map No. 24 to change the front setback from 38 feet to 16 feet, Code Amendment CA2010-002, for the property located at 1500 Serenade Terrace. The minutes of the City Council and Planning Commission actions are attached (Attachment No. PC 5).

## **DISCUSSION**

### **Analysis**

Irvine Terrace was once characterized by the variation in front setbacks that exist between adjacent properties. Modification permit approvals changed the visual character of Santanella Terrace and the Irvine Terrace neighborhood by allowing the garages to encroach into the front setbacks; the habitable portions of the dwelling remained farther from the street. This started a new trend whereby the setback variation is provided on a single lot rather than between two adjoining lots. Refer to Attachment No. PC 6 for subject property front view and aerial photos. This trend is reflected in the plans for the proposed addition to the subject property submitted by the Applicant (Attachment PC 7).

In 2004, the Zoning Code was amended and a "practical difficulty associated with the lot" finding was introduced for modification permits. This finding cannot be made for the subject property, or for most Irvine Terrace lots, as there are no development constraints on the property that would preclude development within the buildable area. Development constraints are typically associated with unusual topography or lot configuration (lot shape). Such development constraints do not exist on the subject property, therefore, there would be no basis to support the necessary findings for the subject property. Therefore, the applicant has applied for the Code Amendment to change the front setback for this property on the setback map.

The subject street is comprised of a total of 40 properties with front setbacks that range between 5 and 35 feet. The subject property has a 34-foot front setback, which is one of two properties with setbacks greater than 30 feet on Santanella Terrace. The required front setbacks on the adjacent properties are 22 feet (1531 Santanella Terrace) and 5 feet (1543 Santanella Terrace), westerly and easterly of the subject property, respectively. The approval of the proposed 19-foot front setback for the subject property would reduce the range of setback variations between the three abutting properties;



however, visually, the setback variations of single-story structures are more apparent when they are a closer to the street, refer to the attached aerial that depicts the existing setbacks, garage orientation and the proposed subject property setback change (Attachment No. PC 8).

The Planning Commission should determine whether or not the visual character of the streetscape, as originally defined by variation in front setbacks, warrants retention of the current 34-foot front setback for the subject property (1324 Santanella Terrace also has a front setback greater than 30 feet, 35 feet required). Staff is of the opinion that the proposed 19-foot front setback is consistent with the visual character of the neighborhood, provides adequate setback variation between the adjacent properties, and therefore is consistent with the intent of the original setback requirements.

#### *Zoning Code Development Standards*

The effect of the proposed Code Amendment to the Zoning District Development Standards on the subject property will allow the building and fences/walls higher than 42 inches tall to be constructed closer to the street, will increase the buildable area of the property, and thereby allow for a larger building footprint and overall building floor area.

This application was submitted prior to the effective date of the updated Zoning Code and is subject to review under the former Zoning Code. It should be noted that pursuant to Section 20.66.040.B of the former Zoning Code, "parking or storage of vehicles in required front yards shall be prohibited, except on driveways in front of garages that are set back a minimum of 19 feet from the front property line." This requirement is intended to keep parked vehicles from encroaching into public rights-of-way (public sidewalks). The updated Zoning Code that went into effect on November 26, 2010, Section 20.42.090.C.3a, would require a minimum of 20 feet from the front property line. Staff is satisfied that the proposed setback change to provide the minimum 19 feet from the front property line and allow for the parking of vehicles in front of the new garage is adequate in this case.

#### *Findings*

In accordance with Chapter 20.94 Amendments, Section 20.94.010 Method of Amendment, of the Municipal Code, the Zoning Code "may be amended by changing the boundaries of districts or by changing any other provision thereof, whenever the public necessity and convenience and the general welfare requires such amendment by following the procedure of the chapter." The Setback Map S9A – Irvine Terrace is a codified section of Title 20, the Zoning Code and may be amended in accordance with Chapter 20.94.

Staff is of the opinion that in this particular case, the adoption of the amendment to the setback map to reduce the front setback from 34 feet to 19 feet, will serve the public necessity and convenience and the general welfare by providing a front setback for the

subject property that is within a narrower setback range with that of the immediately adjacent properties. This setback change will afford the applicant comparable enjoyment of property rights as his neighbors, accommodate a proposed addition to the existing single family dwelling that will be beneficial to the neighborhood, and still provide a variation of front setbacks with the neighboring properties.

The approval of the proposed 19-foot front setback will reduce the range of setback variation between the three abutting properties, which is compatible and consistent with the range of staggered front setbacks for other homes within the Irvine Terrace neighborhood.

#### Environmental Review

The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines - Class 5 (Minor Alterations in Land Use Limitations). The project involves a change in front setback established on a Setback Map, which is consistent with this exemption.


#### Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property, and posted at the site a minimum of ten days in advance of this hearing, consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

  
Javier S. Garcia AICP, Senior Planner

Submitted by:

  
Patrick J. Alford, Planning Manager

#### **ATTACHMENTS**

- PC 1 Applicant's Letter of Justification
- PC 2 Draft Resolution
- PC 3 Setback Map S9-A- Irvine Terrace
- PC 4 Modification Permit No. 4440, 1531 Santanella Terrace
- PC 5 Excerpt of City Council and Planning Commission Minutes
- PC 6 Photo of Subject Property and Aerial Photo
- PC 7 Aerial Photo -Setbacks, Building and Garage Exhibit
- PC 8 Project Plans
- PC 9 Homeowner's Association Letter

## **Attachment No. PC 1**

APPLICANT'S LETTER OF JUSTIFICATION  
FOR CA2010-010



**JOHNSON RESIDENCE  
1537 Santanella Terrace**

**PROJECT DESCRIPTION AND JUSTIFICATION:**

Project Setting

During the scope of a minor room addition (Permit No. 2665-2010), the Owner was advised that the front-yard setback on their subject property was 34-feet. A subsequent discussion determined that to meet the needs of their growing family, additional area was required that could not be achieved in any other practical location on the subject property without complete demolition.

The subject property is located in the Irvine Terrace neighborhood, which is bounded by East Coast Highway, Jamboree Road, Bayside Drive and Avocado Avenue. Specifically, the project site is located on the westerly side of Santanella Terrace between Bonnie Doone and Serenade Terrace. The topography in the Irvine Terrace neighborhood slopes downward from East Coast Highway to Bayside Drive.

Project Description

The current 34-foot front-yard setback requirement for the subject property is established on Districting Map No. 24. Minimum front-yard setbacks range from 8 feet to 39 feet on Santanella Terrace. The applicant's request is that a new, 19-foot front-yard setback be established.

The Homeowner's Association has been advised of the request and, in this case, under their letterhead, they have deferred their approval to the City of Newport Beach Planning Department.

Background

Irvine Terrace was one of the City's first subdivisions and planned communities. A staggered setback concept was approved with the original tract map in an agreement between the City and Irvine Company. A condition of approval required that variances would be needed to establish setbacks at a later date and be reflected on Districting Map No. 24.

In 1953 and 1954, the City Council approved several variances to stagger the front-yard setbacks in Irvine Terrace. The findings for the approval state that the staggered setbacks were consistent with the existing development under construction and offered an "architecturally practical" and "interesting tract layout."

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In subsequent years, the City approved numerous modification permits in Irvine Terrace to allow buildings to encroach into the required front-yard setbacks, including nine on Serenade Terrace and a few others throughout the Irvine Terrace neighborhood.



**DISCUSSION:**

Analysis

*Neighborhood Character*

Irvine Terrace was once characterized by the extreme variation in front-yard setbacks. Modification permit approvals changed the visual character of Santanella Terrace by allowing the garages to encroach into the front-yard setbacks; the habitable portions of the dwelling remained farther from the street. This started a new trend whereby the setback variation is provided on a single lot rather than between each two adjoining lots.

Prior to 2004, property owners in Irvine Terrace were granted modification permits allowing encroachment in front-yard setbacks. In 2004, a "practical difficulty associated with the lot" finding was introduced for modification permits. This finding cannot be made for the subject property, or for most Irvine Terrace lots, as there are not any development constraints on the property that would preclude development within the buildable area. The only option available is a code amendment to change front-yard setback for this property on the districting map.

The subject property has a 34-foot front-yard setback, which is one of the largest on the street. The front-yard setbacks on the adjacent properties are 5 feet and 7 feet. The approval of the proposed 19-foot front-yard setback would reduce the extreme setback variations between properties. In addition, this 19-feet would allow for a car to be parked in front of the garage within the confines of the subject property.

Submitted by:



Andrew Goetz, Architect

**Attachment No. PC 2**  
RESOLUTION FOR CA2010-010



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING THAT THE CITY COUNCIL ADOPT CODE AMENDMENT NO. CA2010-010, TO REVISE SETBACK MAP NO. S-9A (IRVINE TERRACE) TO ESTABLISH A 19-FOOT FRONT SETBACK FOR THE PROPERTY LOCATED AT 1537 SANTANELLA TERRACE (PA2010-176)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Andrew Goetz, on behalf of the property owner Stacie Johnson, with respect to property located at 1537 Santanella Terrace, and legally described as Lot 28 of Tract 1701, requesting approval of a Code Amendment.
2. The applicant proposes a Zoning Code amendment to change a front setback established on Setback Map No. S-9A, Irvine Terrace (formerly designated as Districting Map No. 24) from 34 feet to 19 feet.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone and is subject to the categorical exclusion order (CEO). The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-A).
5. A public hearing was held on January 20, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

**SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

1. The project is categorically exempt under Section 15305, of the California Environmental Quality Act (CEQA) Guidelines – Class 5 (Minor Alterations in Land Use Limitations). The project involves a change in front setback established on a Setback Map, which is consistent with this exemption.
2. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages,

actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Johnson Residence including, but not limited to, Code Amendment No. CA2010-010. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

### SECTION 3. FINDINGS.

1. Code amendments are legislative acts. Neither the City Municipal Code nor State Planning Law set forth any required findings for either approval or denial of such amendments, unless they are determined not to be required for the public necessity and convenience and the general welfare.
2. In accordance with Section 20.94.010 of the Municipal Code, adoption of the change to the setback map to reduce the front setback from 34 feet to 19 feet, will serve the public necessity and convenience and the general welfare by providing a front setback for the subject property that is within a narrower setback range with that of the immediately adjacent properties. This setback change will afford the applicant comparable enjoyment of property rights as his neighbors, accommodate a proposed addition to the existing single family dwelling that will be beneficial to the neighborhood, and still provide a variation of front setbacks with the neighboring properties.
3. The approval of the proposed 19-foot front setback will reduce the range of setback variation between the three abutting properties, which is compatible and consistent with the range of staggered front setbacks for other homes within the Irvine Terrace neighborhood.

### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission hereby recommends that the City Council of the City of Newport Beach approve Code Amendment No. CA2010-010 establishing a 19-foot front setback at 1537 Santanella Terrace, Lot 28 Tract 1701.



**PASSED, APPROVED AND ADOPTED THIS 20<sup>th</sup> DAY OF JANUARY, 2011.**

AYES: \_\_\_\_\_

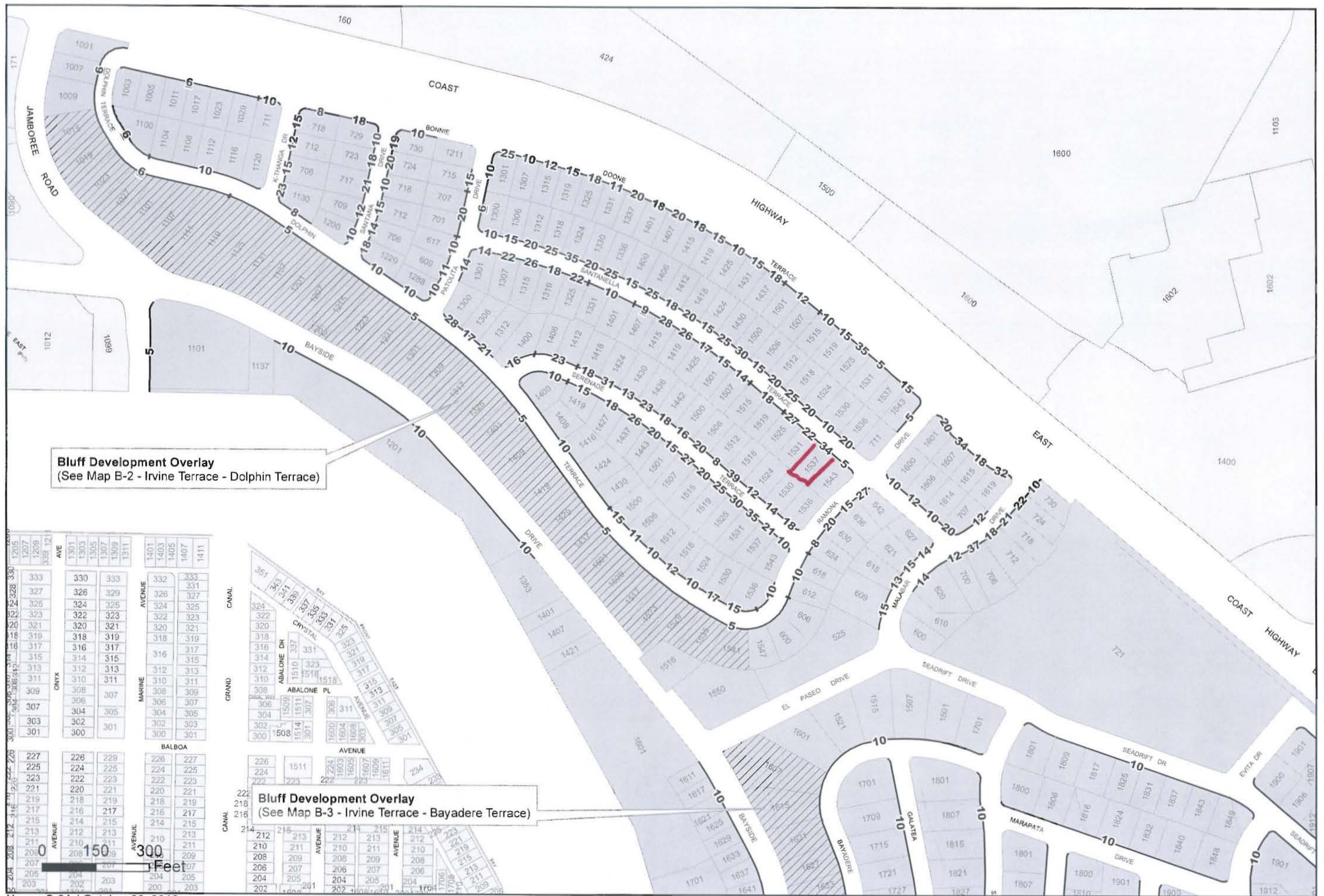
NOES: \_\_\_\_\_

BY: \_\_\_\_\_  
Earl McDaniel, Chairman

BY: \_\_\_\_\_  
Michael Toerge, Secretary

**Attachment No. PC 3**  
SETBACK MAP S9-A - IRVINE TERRACE





**Bluff Development Overlay**  
(See Map B-2 - Irvine Terrace - Dolphin Terrace)

**Bluff Development Overlay**  
(See Map B-3 - Irvine Terrace - Bayadere Terrace)

Setback Map

S-9A - Irvine Terrace

## **Attachment No. PC 4**

MODIFICATION PERMIT NO. 4440  
1531 SANTANELLA TERRACE





## CITY OF NEWPORT BEACH

PO BOX 1705, NEWPORT BEACH, CALIFORNIA 92658-1705

PLANNING DEPARTMENT 644-3200

May 16, 1996

Application Modification No 4440

Applicant Joseph and Deborah Bulwa

Address of Property Involved 1531 Santanella Terrace

Legal Description Lot 27, Tract 1701

Modification Requested Request to permit the construction of additions to a single family dwelling which will encroach to within 7 feet and 6 inches of the front property line, where a 22 foot front yard setback is required

The Modifications Committee on, May 14, 1996, unanimously approved the application subject to the following conditions

1. That development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following Condition No. 2
2. That the proposed easterly addition shall maintain a minimum front yard setback of 12 feet from the property line and that the westerly addition shall maintain a minimum front yard setback of 14 feet from the property line

The Modifications Committee determined in this case that the proposal would not be detrimental to persons, property or improvements in the neighborhood and that the modification as approved would be consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code, and made the following findings

1. That the development, as approved, will not be detrimental to the surrounding area or increase any detrimental effect of the existing use
2. That this project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities) and Class 5 (Minor Alterations in Land Use Limitations)
3. That the front yard setbacks, as approved, are consistent with the staggered setbacks as required by the City along Santanella Terrace

3300 Newport Boulevard, Newport Beach



May 22, 1996

Page 2

4. That the Modifications Committee determined that in this case, the front setbacks as proposed would be detrimental to persons, property and improvements in the neighborhood, and that the applicant's request would not be consistent with the legislative intent of Title 20 of the Newport beach Municipal Code
5. That structures on sites adjoining the subject property generally maintain a minimum of a 10 foot front yard setback

NOTE: This approval shall expire unless exercised within 24 months from the date of approval as specified in Section 20.81.090 of the Newport Beach Municipal Code.

The decision of the Committee may be appealed to the Planning Commission within 14 days of the date of the decision. Any appeal filed shall be accompanied by a filing fee of \$876.00. No building permits may be issued until the appeal period has expired

MODIFICATIONS COMMITTEE

By   
Dana Aslami  
Associate Planner

DA:gv

Appeared in Support:

Two neighboring property owners

Appeared in Opposition

Two neighboring property owners

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# NEW LAYERS

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PROPERTY CODE

partial ENR PLAN  $\frac{1}{4}'' = 1'$  PROPOSED ADDITIONS FOR

4.22.98.

[illegible]

DEPT OF DEFENSE

1

EXPT. MATHS. 25/2/24

EXIST.  
COURTYARD.

NEW 2 CAR  
GARAGE ADDITION

NEW ORLEANS  
LOUISIANA

NEW ORLEANS  
LA 70113

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1032 ~~1031~~

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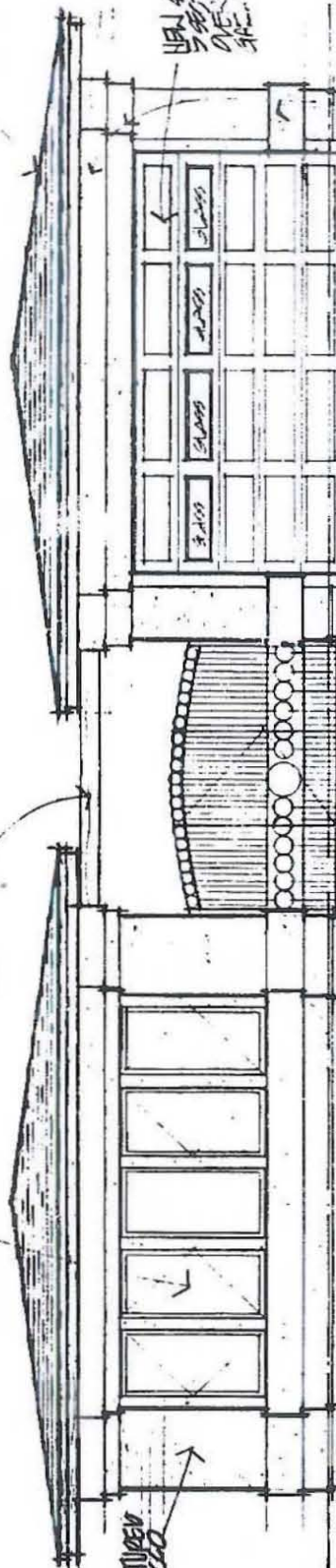
59

27

14' LIMIT LINE GRAVE  
FINISH GRAVE

NEW NOOK WITH DOOR  
TO SEVEN CAR GARAGE

NEW WOOD BEAMS BETWEEN  
BUILDINGS - HIGH TEXTURAL  
TREATMENT



NEW TEXTURED  
STUCCO

NEW SECTIONAL  
SECTIONS HIGH  
OVER NEW  
SPACED WORK

NEW ENTRY & ENTRY RM. ADDITION

NEW ORIENTAL  
W. GATE ENTRY

NEW C. G. K. SHEDS H. U. -

STUCCO WORK WITH  
ARCHITECTURAL  
DETAILS

PROPOSED ADDITION  
FRONT [STREET] ELEVATION

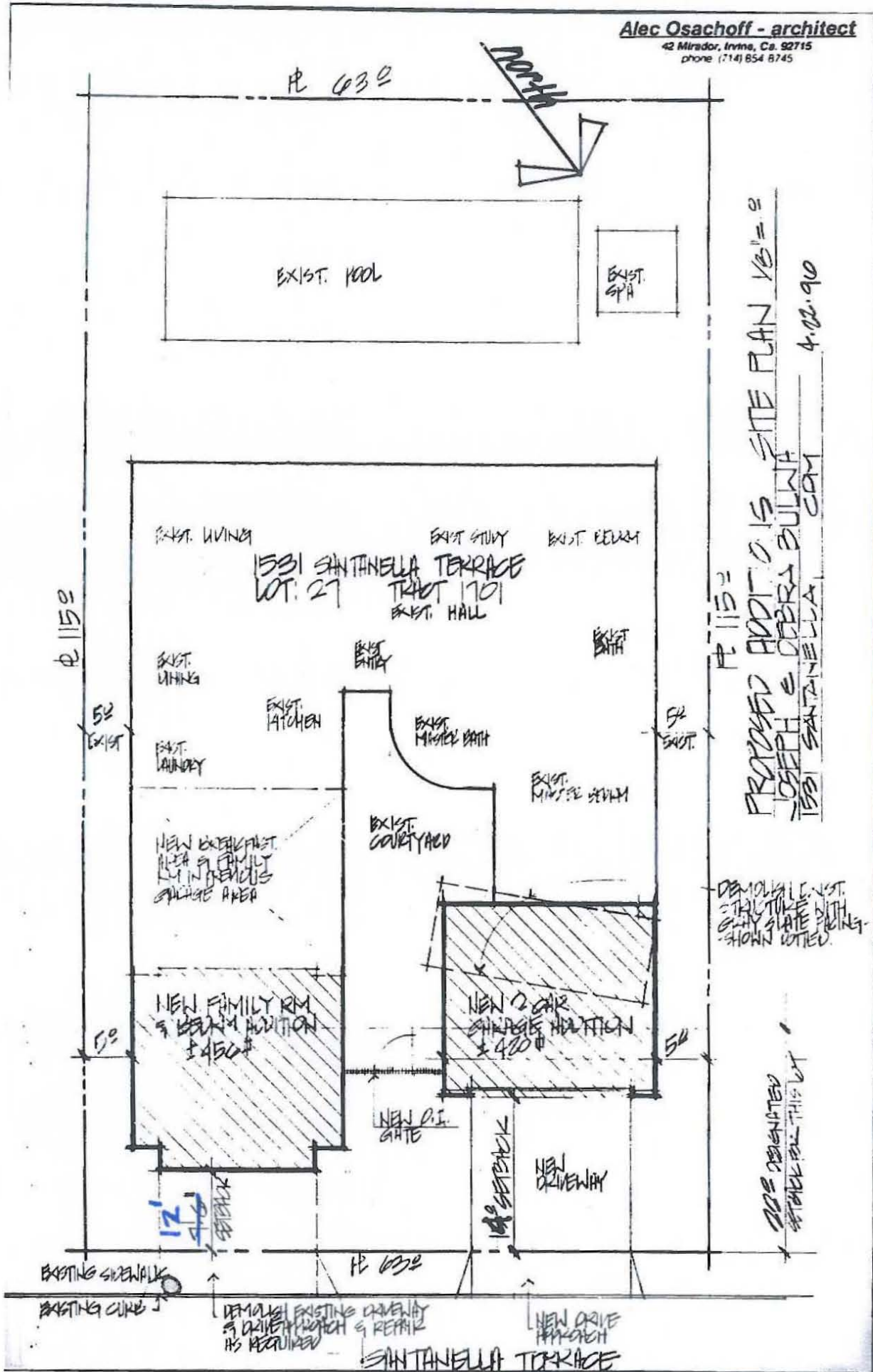
10650 and DEER BULW  
1331 S. HANES ST. CORNER OF MIR, CA. 4.00 AC  
NEW ADDITION LOT 27, TRACT 1701

Alec Osachoff - architect  
42 Mirador, Irvine, CA. 92715  
PHONE (714) 854-8745



Alec Osachoff - architect

42 Mirador, Irvine, Ca. 92715  
phone (714) 854 8745



## **Attachment No. PC 5**

Excerpt of City Council and Planning  
Commission Minutes for CA2010-002

## NEWPORT BEACH PLANNING COMMISSION MINUTES

05/20/2010

<b>SUBJECT: MINUTES</b> of the regular meeting of April 22, 2010.		<b>ITEM NO. 1</b>
<b>Motion</b> was made by Commissioner Hillgren, seconded by Commissioner Unsworth, to amend the April 22, 2010 minutes and continue to June 3, 2010.		<b>Continued to June 3, 2010</b>
<b>Motion</b> carried with the following vote:		
<b>Ayes:</b>	Eaton, Unsworth, Peotter, Hawkins, Toerge, and Hillgren	
<b>Abstained:</b>	McDaniel	
***		
<b>PUBLIC HEARING ITEMS</b>		
<b>SUBJECT: D'Ambrosia Residence (PA2010-017)</b> 1500 Serenade Terrace		<b>ITEM NO. 2</b> <b>PA2010-017</b>
A code amendment to change the front-yard setback established on Districting Map No. 24 from 38 feet to 16 feet.		<b>Continued from April 22, 2010</b>
Russell Bunim, Assistant Planner, presented the staff report with a slide show presentation.		<b>Approved</b>
Public comment was opened.		
Matt D'Ambrosia, applicant and owner, presented slide show and made comments.		
Comments in support were given by the following:		
<ul style="list-style-type: none"> <li>• Mark Teale, architect</li> <li>• Joseph A. Solvoso II, resident on Serenade Terrace and President of Irvine Terrace Community Association</li> </ul>		
Public comment was closed.		
<b>Motion</b> made by Commissioner Toerge, seconded by Commissioner Hillgren, to adopt a resolution recommending City Council adoption of Code Amendment No. CA2010-002 to revise Districting Map No. 24 to establish a 16-foot front-yard setback at 1500 Serenade Terrace.		
<b>Motion</b> carried with the following vote:		
<b>Ayes:</b>	Eaton, Unsworth, Peotter, Hawkins, McDaniel, Toerge, and Hillgren	
<b>Noes:</b>	None	
***		



Resolution No. 2010-76-Calling and Giving Notice of the Holding of a General Municipal Election on Tuesday, November 2, 2010 for the Submission of Proposed Charter Amendments and Ordinance Repeal; b) adopt Resolution No. 2010-77-Requesting the Board of Supervisors of the County of Orange to Consolidate a General Municipal Election to be Held on Tuesday, November 2, 2010, with the Statewide General Election to be Held on the Same Date Pursuant to California Elections Code Section 10403; c) adopt Resolution No. 2010-78-Adopting Regulations for Candidates for Elective Office Pertaining to Candidates Statements Submitted to the Voters at an Election to be Held on Tuesday, November 2, 2010; d) adopt Resolution No. 2010-79-Setting Priorities for Filing Written Arguments Regarding City Measures and Directing the City Attorney to Prepare an Impartial Analysis; and e) adopt Resolution No. 2010-80-Providing for the Filing of Rebuttal Arguments for the One City Measure Submitted to Voters at the General Municipal Election to be Held on Tuesday, November 2, 2010 Pursuant to California Elections Code Section 9285.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner  
Absent: Council Member Daigle

## **XII. CONSENT CALENDAR**

### **A. READING OF MINUTES/ORDINANCES AND RESOLUTIONS**

1. MINUTES OF THE ADJOURNED REGULAR MEETING AND REGULAR MEETING OF JUNE 22, 2010. [100-2010] Waive reading of subject minutes, approve as written, and order filed.
2. READING OF ORDINANCES AND RESOLUTIONS. Waive reading in full of all ordinances and resolutions under consideration, and direct City Clerk to read by title only.

### **B. ORDINANCES FOR ADOPTION**

3. CODE AMENDMENT TO ALLOW THE CHANGE OF A FRONT-YARD SETBACK ESTABLISHED ON DISTRICTING MAP NO. 24 FROM 38 FEET TO 16 FEET (PA2010-017). [100-2010] Adopt Ordinance No. 2010-11 approving Code Amendment No. CA2010-002.
4. DIAGNOSTIC AND INTERVENTIONAL SPINAL CARE (D.I.S.C.) (PA2010-062) - 3501 JAMBOREE ROAD AND 301 BAYVIEW CIRCLE - PLANNED COMMUNITY AMENDMENT NO. PD2010-004 AND TRAFFIC STUDY NO. TS2010-002 - ADDING OUTPATIENT SURGERY AND MEDICAL OFFICE AS PERMITTED USES, ADDING PARKING REQUIREMENT OF 1/200 SQUARE FEET FOR SUCH USES, AND FINDING THAT THE TRAFFIC STUDY COMPLIES WITH THE TRAFFIC PHASING ORDINANCE. [100-2010] Adopt Ordinance No. 2010-12 approving Planned Community Amendment No. PD2010-004.

### **C. RESOLUTIONS FOR ADOPTION**

5. APPROVAL OF RESOLUTIONS ADOPTING MEMORANDUM OF UNDERSTANDING WITH THE POLICE ASSOCIATION (PA), POLICE



Regarding Item 5 (Memorandum of Understanding with the Police Association, Police Management Association, and Association of Newport Beach Ocean Lifeguards), Mayor Curry stated that Police staff have made significant contributions to their pension costs and expressed appreciation for their efforts to maintain service levels.

Motion by Mayor Pro Tem Henn, seconded by Council Member Webb to approve the Consent Calendar, and noting the correction to Item 13.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner

Absent: Council Member Daigle

**XIII. ITEMS REMOVED FROM THE CONSENT CALENDAR - None**

**XIV. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES**

Council Member Webb corrected a *Daily Pilot* article by clarifying that his walks around Newport Beach are also done with his wife, not alone.

**XV. PUBLIC COMMENTS**

Matthew Thomas urged Council to adopt an ordinance requiring restaurants to attend Responsible Beverage Serving (RBS) training.

Mayor Pro Tem Henn noted that RBS training has been required in the City. City Manager Kiff stated that he will provide a report to Council regarding RBS training at a later date.

Laura Dietz, Sunrise Rotary Club, invited residents to attend the Second Annual Lobster Fest on August 1, 2010 at the Newport Beach Waterfront Resort and encouraged residents to visit their website at [www.lobsterfestatnewportbeach.com](http://www.lobsterfestatnewportbeach.com) or call (949) 721-8035 for more information.

**XVII. CURRENT BUSINESS**

**12. NEXTG TELECOM PERMITS FOR A DISTRIBUTED ANTENNA SYSTEM WITHIN THE PUBLIC RIGHT-OF-WAY. [68/100-2010]**

Associate Planner Brown provided the history of NextG Telecom, showed a map and photos depicting the proposed locations, discussed applicable ordinances, indicated that the locations are subject to review by Council, recommended that Council deny the first five applications because the new monopoles are not consistent with current City ordinances, and provided information relative to staff's recommendation to approve the proposed installation of antennas at the Marcus Avenue and Santa Ana Avenue locations. She noted that the permits will require approval from the Coastal Commission.

In response to Council Member Rosansky's question, Council Member Webb explained that when the power lines are placed underground, the existing antenna will need to be moved to a streetlight or other existing location, and all of the other equipment will be placed underground with the power lines.

Carver Chiu, Plancom Incorporated, thanked staff for the time spent on the project, provided information about the services that NextG offers, expressed their



Marine Avenue Business Improvement District (BID) confirming the levy of the BID assessment for the 2010-2011 fiscal year, unless during the Public Hearing the Council received protests representing 50 percent or more of the total assessment amount.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

21. **CORONA DEL MAR BUSINESS IMPROVEMENT DISTRICT (BID) RENEWAL: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION CONFIRMING THE LEVY OF ASSESSMENT FOR THE RENEWAL OF THE BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2010-2011. [100-2010]**

Motion by Council Member Rosansky, seconded by Council Member Webb to Conduct public hearing; and b) adopt Resolution No. 2010-68 confirming the levy of assessment for the renewal of the Corona del Mar Business Improvement District (BID) confirming the levy of the BID assessment for the 2010-2011 fiscal year, unless during the Public Hearing the Council received protests representing 50 percent or more of the total assessment amount.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

22. **NEWPORT BEACH RESTAURANT ASSOCIATION BUSINESS IMPROVEMENT DISTRICT (BID) RENEWAL: CONDUCT PUBLIC HEARING AND ADOPT RESOLUTION CONFIRMING THE LEVY OF ASSESSMENT FOR THE RENEWAL OF THE BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2010-2011. [100-2010]**

Motion by Mayor Pro Tem Henn, seconded by Council Member Webb to adopt Resolution No. 2010-69 confirming the levy of assessment for the renewal of the Restaurant Association Business Improvement District (BID) confirming the levy of the BID assessment for the 2010-2011 fiscal year, unless during the Public Hearing the Council received protests representing 50 percent or more of the total assessment amount.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

23. **CODE AMENDMENT TO ALLOW THE CHANGE OF A FRONT-YARD SETBACK ESTABLISHED ON DISTRICTING MAP NO. 24 FROM 38 FEET TO 16 FEET (PA2010-017). [100-2010]**

Mayor Curry opened the public hearing.

Joe Silviso II, President of Irvine Terrace Community Association, expressed support for the Code Amendment.

Hearing no further testimony, Mayor Curry closed the public hearing.



Motion by Council Member Webb, seconded by Council Member Rosansky to introduce Ordinance No. 2010-11 approving Code Amendment No. CA2010-002, and pass to second reading on July 6, 2010.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

24. **DIAGNOSTIC AND INTERVENTIONAL SPINAL CARE (D.I.S.C.) (PA2010-062) - 3501 JAMBOREE ROAD AND 301 BAYVIEW CIRCLE - PLANNED COMMUNITY AMENDMENT NO. PD2010-004 AND TRAFFIC STUDY NO. TS2010-002 - ADDING OUTPATIENT SURGERY AND MEDICAL OFFICE AS PERMITTED USES, ADDING PARKING REQUIREMENT OF 1/200 SQUARE FEET FOR SUCH USES, AND FINDING THAT THE TRAFFIC STUDY COMPLIES WITH THE TRAFFIC PHASING ORDINANCE. [100-2610]**

Assistant Planner Whelan reported that the traffic study concluded that the project will not create a significant impact at the study intersections and staff recommended that Council introduce the Ordinance finding that the traffic study complies with the Traffic Phasing Ordinance.

In response to Council Member Gardner's question, Assistant Planner Whelan stated that the Braykob's reside in the Bayview Planned Community.

Council Member Daigle noted that the Planning Commission recommended approval of the project, stated that the building is 73% vacant which is a great economic development opportunity, and expressed appreciation for SK Hart's willingness to invest in the City.

Motion by Council Member Daigle, seconded by Council Member Webb to a) introduce Ordinance No. 2010-12 approving Planned Community Amendment No. PD2010-004, and pass to second reading on July 6, 1020; and b) adopt Resolution No. 2010-70 finding that the traffic study complies with the Traffic Phasing Ordinance, and based on the weight of the evidence in the administrative record, including Traffic Study No. TS2010-002, the construction of the Project will be completed within 60 months of the project approval, the Project will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection, and no improvements or mitigations are necessary

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

- S26. **HOAG MEMORIAL HOSPITAL PRESBYTERIAN - DEVELOPMENT AGREEMENT ANNUAL COMPLIANCE REVIEW (C-2912). [38/100-2010]**

Motion by Council Member Rosansky, seconded by Council Member Webb to continue the item to the July 27, 2010 meeting.

The motion carried by the following roll call vote:

## **Attachment No. PC 6**

PHOTO OF FRONT OF 1327  
SANTANELLA TERRACE  
FOR CA2010-010





Address **1300 Santanella Terrace**

Address is approximate

**PHOTO OF 1327 SANTANELLA TERRACE**





**PHOTO- 1537 SANTANELLA TERRACE**





**AERIAL PHOTO- 1537 Santanella Terrace (Code Amendment No. 2010-010) &  
1500 Serenade Terrace (Code Amendment No. 2010-002)**



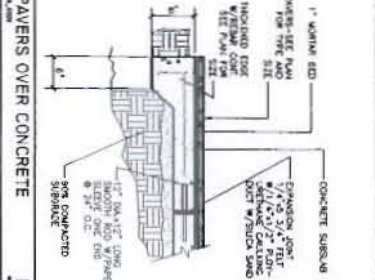
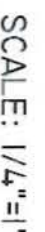




## **Attachment No. PC 7**

PROJECT PLANS  
1537 SANTANELLA TERRACE  
FOR CA2010-010

CITY OF NEWPORT BEACH

[illegible]

STUDIO DEL MAR

2855 EAST COAST HWY, STE 234  
CORONA DEL MAR, CA. 92625

849.673.3152  
849.873.3156

MINOR ADDITION  
STACIE JOHNSON  
1537 SANTANELLA  
CORONA DEL MAR, CA. 92625

19732 MAC ARTHUR BLVD. #125  
NEWPORT BEACH, CA 92612

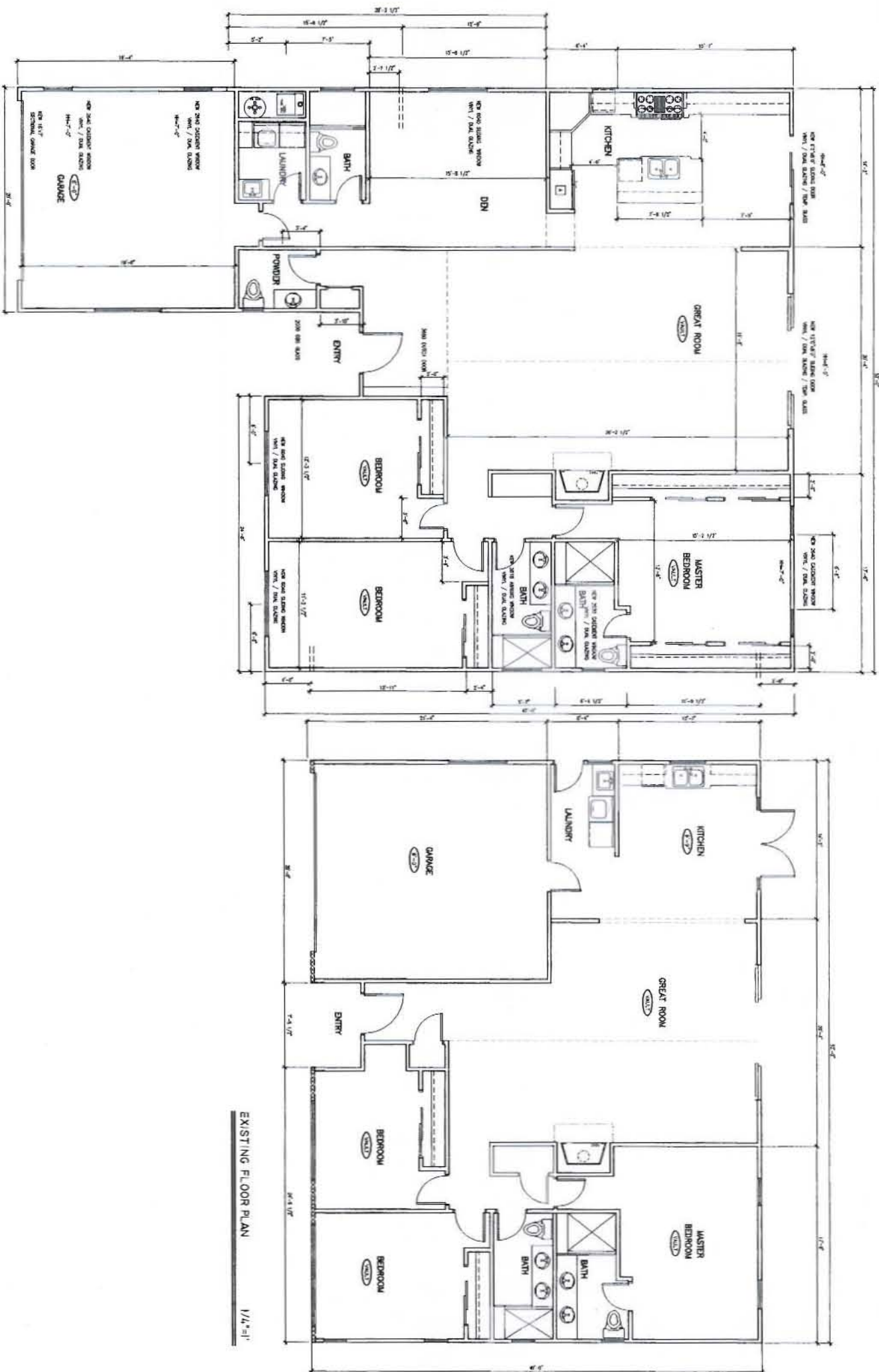
949.483.4500

**PERMIT**

STUDIO DEL WAR EXPRESSLY RESERVES HIS COMMON LAW COPYRIGHTS AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS ARE NOT TO BE REPRODUCED, CHANGED, OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO A THIRD PARTY WITHOUT FIRST OBTAINING THE WRITTEN PERMISSION AND CONSENT OF STUDIO DEL WAR. THE THIRD PARTY SHALL HOLD STUDIO DEL WAR HARMLESS.

PROJECT STATISTICS	11/29/10
230 SQ. FT. GARAGE ADDITION	11/4/10
230 SQ. FT. GARAGE ADDITION	11/19/10
16 SQ. FT. REAR ELEVATION	
420 SQ. FT. GARAGE ADDITION - PER MODIFICATION REQUEST	
PROJECT STATISTICS	11/27/10
	10/11
	11/27/10
A-1	
1	5



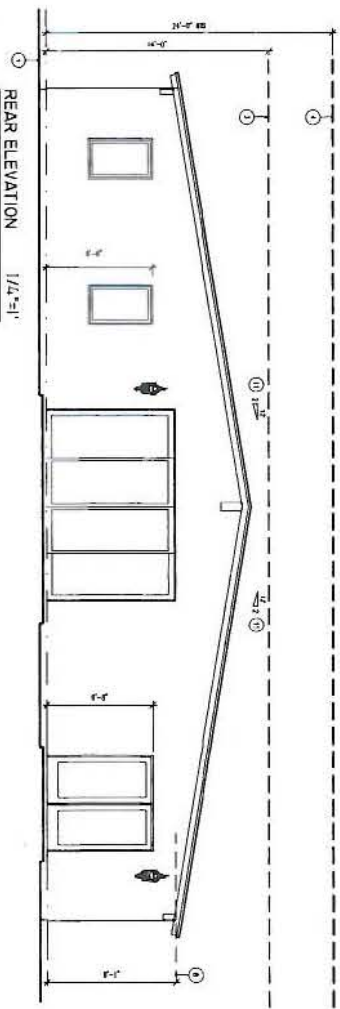
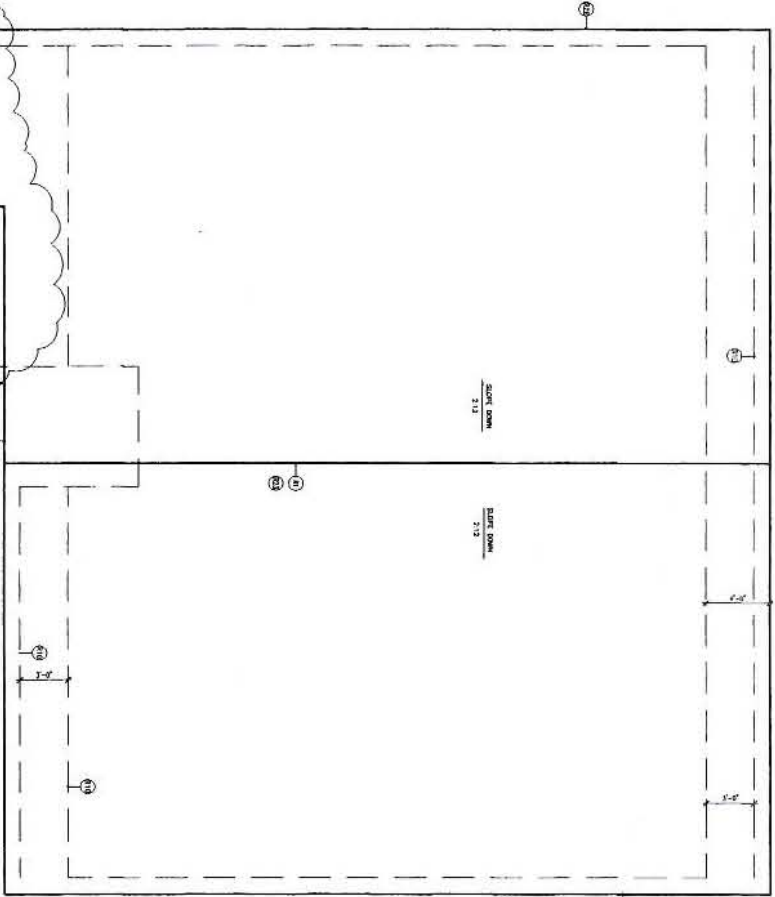
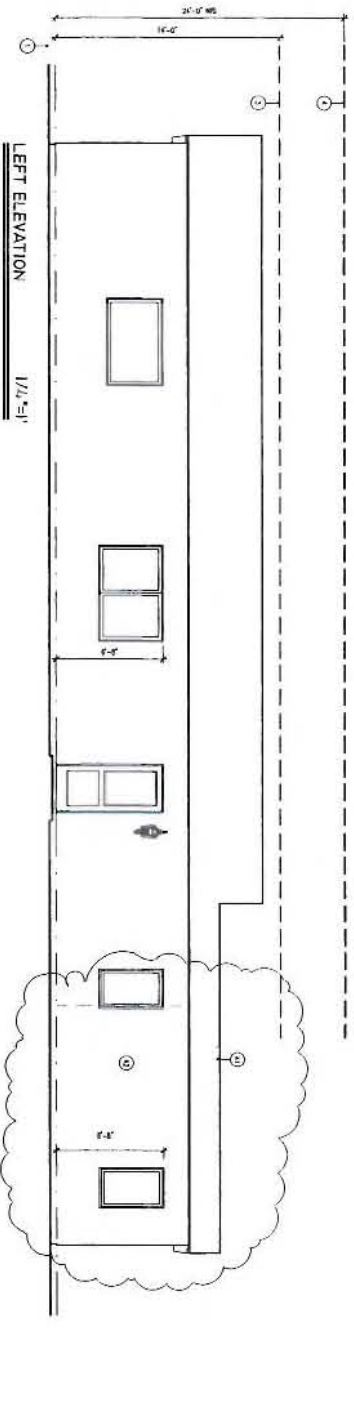
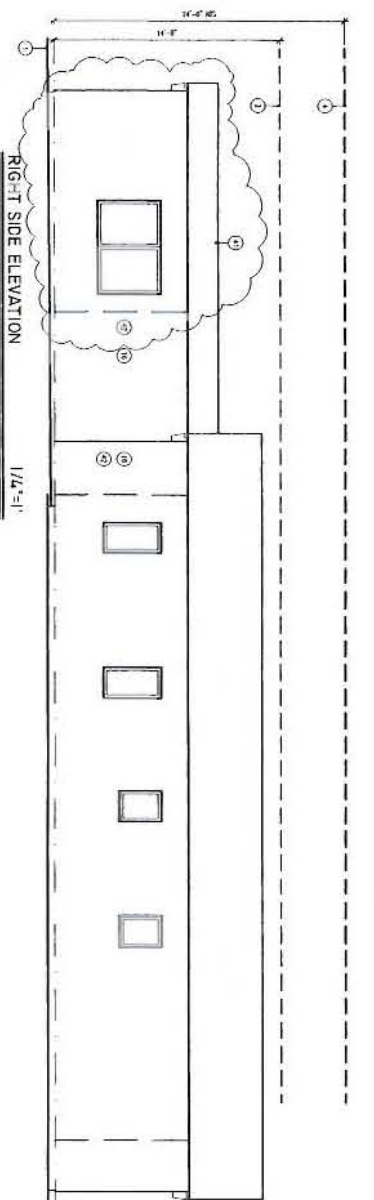
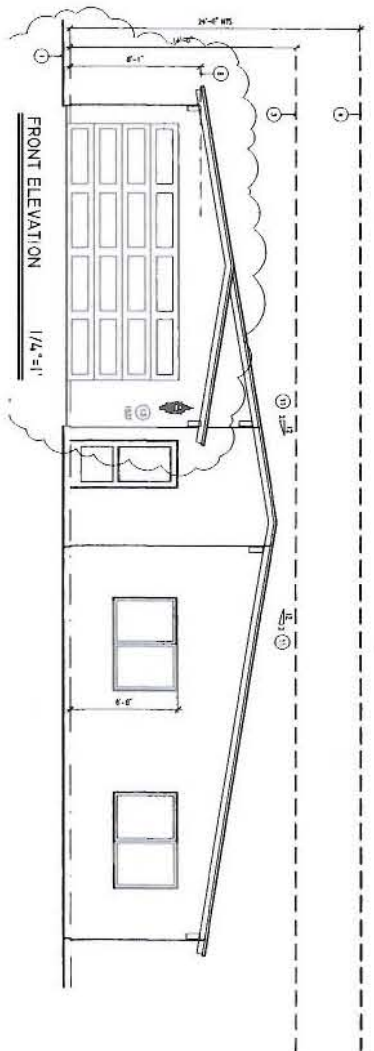


NEW FLOOR PLAN

EXISTING FLOOR PLAN

1.

[illegible]



ROOF PLAN

SCALE: 1/4"=1'

[illegible]

<p>ROOF NOTES</p>	<p>#</p>	<p>CEMENT PLASTER</p>
<p>             R1 ROOF              R2 ROOF              R3 ROOF              R4 ROOF              R5 ROOF              R6 ROOF              R7 ROOF              R8 ROOF              R9 ROOF              R10 ROOF              R11 ROOF              R12 ROOF              R13 ROOF              R14 ROOF              R15 ROOF              R16 ROOF              R17 ROOF              R18 ROOF              R19 ROOF              R20 ROOF              R21 ROOF              R22 ROOF              R23 ROOF              R24 ROOF              R25 ROOF              R26 ROOF              R27 ROOF              R28 ROOF              R29 ROOF              R30 ROOF              R31 ROOF              R32 ROOF              R33 ROOF              R34 ROOF              R35 ROOF              R36 ROOF              R37 ROOF              R38 ROOF              R39 ROOF              R40 ROOF              R41 ROOF              R42 ROOF              R43 ROOF              R44 ROOF              R45 ROOF              R46 ROOF              R47 ROOF              R48 ROOF              R49 ROOF              R50 ROOF              R51 ROOF              R52 ROOF              R53 ROOF              R54 ROOF              R55 ROOF              R56 ROOF              R57 ROOF              R58 ROOF              R59 ROOF              R60 ROOF              R61 ROOF              R62 ROOF              R63 ROOF              R64 ROOF              R65 ROOF              R66 ROOF              R67 ROOF              R68 ROOF              R69 ROOF              R70 ROOF              R71 ROOF              R72 ROOF              R73 ROOF              R74 ROOF              R75 ROOF              R76 ROOF              R77 ROOF              R78 ROOF              R79 ROOF              R80 ROOF              R81 ROOF              R82 ROOF              R83 ROOF              R84 ROOF              R85 ROOF              R86 ROOF              R87 ROOF              R88 ROOF              R89 ROOF              R90 ROOF              R91 ROOF              R92 ROOF              R93 ROOF              R94 ROOF              R95 ROOF              R96 ROOF              R97 ROOF              R98 ROOF              R99 ROOF              R100 ROOF              R101 ROOF              R102 ROOF              R103 ROOF              R104 ROOF              R105 ROOF              R106 ROOF              R107 ROOF              R108 ROOF              R109 ROOF              R110 ROOF              R111 ROOF              R112 ROOF              R113 ROOF              R114 ROOF              R115 ROOF              R116 ROOF              R117 ROOF              R118 ROOF              R119 ROOF              R120 ROOF              R121 ROOF              R122 ROOF              R123 ROOF              R124 ROOF              R125 ROOF              R126 ROOF              R127 ROOF              R128 ROOF              R129 ROOF              R130 ROOF              R131 ROOF              R132 ROOF              R133 ROOF              R134 ROOF              R135 ROOF              R136 ROOF              R137 ROOF              R138 ROOF              R139 ROOF              R140 ROOF              R141 ROOF              R142 ROOF              R143 ROOF              R144 ROOF              R145 ROOF              R146 ROOF              R147 ROOF              R148 ROOF              R149 ROOF              R150 ROOF              R151 ROOF              R152 ROOF              R153 ROOF              R154 ROOF              R155 ROOF              R156 ROOF              R157 ROOF              R158 ROOF              R159 ROOF              R160 ROOF              R161 ROOF              R162 ROOF              R163 ROOF              R164 ROOF              R165 ROOF              R166 ROOF              R167 ROOF              R168 ROOF              R169 ROOF              R170 ROOF              R171 ROOF              R172 ROOF              R173 ROOF              R174 ROOF              R175 ROOF              R176 ROOF              R177 ROOF              R178 ROOF              R179 ROOF              R180 ROOF              R181 ROOF              R182 ROOF              R183 ROOF              R184 ROOF              R185 ROOF              R186 ROOF              R187 ROOF              R188 ROOF              R189 ROOF              R190 ROOF              R191 ROOF              R192 ROOF              R193 ROOF              R194 ROOF              R195 ROOF              R196 ROOF              R197 ROOF              R198 ROOF              R199 ROOF              R200 ROOF              R201 ROOF              R202 ROOF              R203 ROOF              R204 ROOF              R205 ROOF              R206 ROOF              R207 ROOF              R208 ROOF              R209 ROOF              R210 ROOF              R211 ROOF              R212 ROOF              R213 ROOF              R214 ROOF              R215 ROOF              R216 ROOF              R217 ROOF              R218 ROOF              R219 ROOF              R220 ROOF              R221 ROOF              R222 ROOF              R223 ROOF              R224 ROOF              R225 ROOF              R226 ROOF              R227 ROOF              R228 ROOF              R229 ROOF              R230 ROOF              R231 ROOF              R232 ROOF              R233 ROOF              R234 ROOF              R235 ROOF              R236 ROOF              R237 ROOF              R238 ROOF              R239 ROOF              R240 ROOF              R241 ROOF              R242 ROOF              R243 ROOF              R244 ROOF              R245 ROOF              R246 ROOF              R247 ROOF              R248 ROOF              R249 ROOF              R250 ROOF              R251 ROOF              R252 ROOF              R253 ROOF              R254 ROOF              R255 ROOF              R256 ROOF              R257 ROOF              R258 ROOF              R259 ROOF              R260 ROOF              R261 ROOF              R262 ROOF              R263 ROOF              R264 ROOF              R265 ROOF              R266 ROOF              R267 ROOF              R268 ROOF              R269 ROOF              R270 ROOF              R271 ROOF              R272 ROOF              R273 ROOF              R274 ROOF              R275 ROOF              R276 ROOF              R277 ROOF              R278 ROOF              R279 ROOF              R280 ROOF              R281 ROOF              R282 ROOF              R283 ROOF              R284 ROOF              R285 ROOF              R286 ROOF              R287 ROOF              R288 ROOF              R289 ROOF              R290 ROOF              R291 ROOF              R292 ROOF              R293 ROOF              R294 ROOF              R295 ROOF              R296 ROOF              R297 ROOF              R298 ROOF              R299 ROOF              R300 ROOF              R301 ROOF              R302 ROOF              R303 ROOF              R304 ROOF              R305 ROOF              R306 ROOF              R307 ROOF              R308 ROOF              R309 ROOF   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R353 ROOF              R354 ROOF              R355 ROOF              R356 ROOF              R357 ROOF              R358 ROOF              R359 ROOF              R360 ROOF              R361 ROOF              R362 ROOF              R363 ROOF              R364 ROOF              R365 ROOF              R366 ROOF              R367 ROOF              R368 ROOF              R369 ROOF              R370 ROOF              R371 ROOF              R372 ROOF              R373 ROOF              R374 ROOF              R375 ROOF              R376 ROOF              R377 ROOF              R378 ROOF              R379 ROOF              R380 ROOF              R381 ROOF              R382 ROOF              R383 ROOF              R384 ROOF              R385 ROOF              R386 ROOF              R387 ROOF              R388 ROOF              R389 ROOF              R390 ROOF              R391 ROOF              R392 ROOF              R393 ROOF              R394 ROOF              R395 ROOF              R396 ROOF              R397 ROOF              R398 ROOF              R399 ROOF              R400 ROOF              R401 ROOF              R402 ROOF              R403 ROOF              R404 ROOF              R405 ROOF              R406 ROOF              R407 ROOF              R408 ROOF              R409 ROOF              R410 ROOF              R411 ROOF </p>		

[illegible]



## **Attachment No. PC 8**

AERIAL PHOTO-  
SETBACKS, BUILDING AND GARAGE EXHIBIT  
FOR CA2010-010



**AERIAL PHOTO- SETBACKS, BUILDING AND GARAGE EXHIBIT:**

- D Denotes Direct Access Garage
- S Denotes Side Access Garage
- Denotes Setback Line
- Denotes Modification Setback Line
- Denotes Proposed Setback Line



## **Attachment No. PC 9**

H.O.A. LETTER  
FOR CA2010-010

IRVINE TERRACE COMMUNITY ASSOCIATION  
C/O Merit Property Management - Orange County  
1 Polaris Way Suite 100  
Aliso Viejo, CA 92656  
Ph: 949-448-6000  
Fax: 949-448-6400



Wednesday, November 17, 2010

STACIE JOHNSON  
1537 SANTANELLA Ter  
CORONA DEL MAR CA 92625

RE: ARC REQUEST

Dear STACIE JOHNSON:

Thank you for submitting your plans to the Irvine Terrace Community Association. The Architectural Committee was unable to approve your plans at this time and request that you provide the following:

1) Provide the approval of variance from the City of Newport Beach, as proposed addition is inside the 34'-0" setback as set by the City for this lot.

Once the above have been addressed, please submit a copy to our office by no later than December 17, 2010. If you are unable to meet this deadline, please contact our office to advise. Should you have any questions, please contact our office at (949) 448-6000 or by email [mbadamain@meritpm.com](mailto:mbadamain@meritpm.com). Thank you for your patience and cooperation.

Sincerely,

Architectural Committee  
Irvine Terrace Community Association